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AUTHOR	Smith, Barbara J.; Rapport, Mary Jane K.
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ABSTRACT

This paper discusses 1997 amendments to the Individuals with Disabilities Education Act (IDEA) that promote the inclusion of children with disabilities in general early childhood education settings. The evolution of inclusion policy is explored and changes in disability terminology are described. Amended provisions are then explained and include: (1) an emphasis on the provision of early intervention services in natural environments; (2) participation of preschool children with disabilities in appropriate activities; (3) access to the general education curriculum; and (4) a change in the definition of supplementary aids and services that makes it clear that these non-special education and related services are to be provided if necessary to successfully include a child with disability in general education settings and/or the general education curriculum. The report contains two tables that outline inclusion provisions in the IDEA early intervention program and in the preschool program. It also emphasizes that while IDEA contains provisions indicating a preference for inclusion for infants and toddlers and preschoolers with disabilities, implementation strategies at the state and local levels will play an important part in actualizing that preference. (CR)

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The Collaborative Planning Project

IDEA and Early Childhood Inclusion

Barbara J. Smith, Ph.D.
and
Mary Jane K. Rapport, Ph.D., P.T.

Collaborative Planning Project
University of Colorado at Denver
Denver, Colorado

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For more information about The Collaborative Planning Project contact Linda Frederick at the Center for Collaborative Educational Leadership, 1380 Lawrence St., Suite 650, Denver, CO 80204, (303) 556-3330, Linda_Frederick@ceo.cudenver.edu

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IDEA and Early Childhood Inclusion

Barbara J. Smith, Ph.D. and Mary Jane K. Rapport, Ph.D., P.T.

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"Even though IDEA does not mandate regular class placement for every disabled student, IDEA assumes that the first placement option considered for each student by the student's placement team, which must include the parent, is the school the child would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement. Thus, before a disabled child can be placed outside of the regular educational environment, the full range of supplementary aids and services that, if provided, would facilitate the student's placement in the regular classroom setting, must be considered." (34 C.F.R. Appendix A, Page 12471)

According to Seekins and Fawcett (1986), public policies commit the government to certain goals, determine whose interests and values will prevail, and regulate and distribute resources. In the United States, public policies exist as laws, regulations, executive orders, guidelines, etc., that have been promulgated at the federal, state, or local levels. Gallagher (1996) describes public policy as a *social hypothesis* that certain procedures will enhance the welfare of the target group of citizens for which it was designed. Additionally, he and his colleagues define public policy as the rules and standards by which scarce public resources are allocated to meet social needs (Gallagher, Harbin, Eckland, & Clifford, 1994). Public policy has been described as evolutionary – changing with the times and circumstances (LaVor, 1976a). Indeed, if it is a social hypothesis, it follows then, that as society's values and knowledge change, so to will public policy.

Inclusion policy has evolved in many ways. It has evolved as the thinking, database and values about inclusion in our society evolves. The terminology used to describe children with disabilities being with their non-disabled peers has changed over time in the consumer and professional literature as well as in policy (Odom, Horn, Marquart, Hanson, Wolfberg, Beckman, Lieber, Li, Schwartz, Janko & Sandall, 1999). Terms such as "mainstreaming," "least restrictive environment (LRE)," "continuum of alternative placements," "integration," "inclusion," and "involvement and progress in the general curriculum" represent different points in time and

different valued outcomes over the last two decades. The provisions related to inclusion in the original Individuals with Disabilities Education Act (IDEA), which was passed in 1975 as the Education for all Handicapped Children Act (P.L. 94-142), only referred to least restrictive environments and to a continuum of placement options. Updated recently, the IDEA amendments of 1997 contain many provisions for ensuring access to the "general curriculum" for 3-21 year olds and to "natural environments" for birth-2 year olds. These concepts and policies reflect a more proactive and purposeful policy with a clear preference for children with disabilities to be educated and receive services with their non-disabled age-mates in typical early childhood settings. These examples of policies and how they impact services to children point out the importance of parents and professionals being involved in the details of policy development. This involvement can help guide the policy toward best practice, as well as current values and knowledge.

National policy evolved most recently in the 1997 amendments to IDEA (P.L. 105-17). The 1997 amendments represent a major milestone. While the main purpose of IDEA remains the assurance of a free and appropriate public education for children with disabilities, the '97 amendments and the attendant regulations published in March of 1999, make clear the preference for inclusion. The amendments and accompanying regulations have taken the concept of LRE much further toward meaningful inclusion. Many of the new provisions are described in the following sections. IDEA '97 attempts to address many of the previous challenges to inclusion. IDEA '97 includes prohibitions on state education funding formulas that have the effect of segregation by funding classrooms rather than services that can be delivered anywhere [see 34 Code of Federal Regulations (C.F.R.) § 300.130], and the Individualized Education Program (IEP) provisions now require consideration of the child's involvement in the general education curriculum and the participation of regular educators in the IEP process (34 C.F.R. § 300.340-350).

IDEA does not use the term "inclusion". Instead, IDEA uses terms such as "LRE", "participation in the general curriculum," and "natural environments." Below, in Table 1, the relevant provisions of Part C of IDEA, the Early Intervention Program for Infants and Toddlers with Disabilities, which

governs services to children from birth to three years old are reviewed, then, Part B of IDEA, Assistance to States for the Education of Children with Disabilities, is described for children from three to twenty-one years old in Table 2.

Part C of IDEA, The Early Intervention Program for Infants and Toddlers with Disabilities

In IDEA '97, Part H, the Infant and Toddler Program, was changed to Part C. Regulations for Part C, the Early Intervention Program for Infants and Toddlers with Disabilities, were issued by the U.S. Department of Education in April 1998, and reopened for comment in 1999. These regulations incorporated statutory changes from the 1997 Amendments to IDEA as well as changes to provide consistency between Part C and Part B of IDEA. Final regulations for IDEA '97 were issued in March 1999, and the Part C section contained several technical changes that were not included in the previous regulatory changes issued in 1998.

The Part C regulations include an emphasis on the provision of early intervention services in "natural environments." The concept of natural environments, as an extension of the least restrictive environment (LRE) requirement under Part B, was first included in the then Part H regulations following the 1991 Amendments of IDEA.

Both the federal statutory and regulatory language emphasize the importance of providing services in natural environments. Part C of IDEA contains the legal presumption for providing early intervention services for infants or toddlers in natural environments. Early intervention services are defined in the IDEA '97 statute as "developmental services that to the maximum extent appropriate are provided in natural environments, including home and community settings in which children without disabilities participate" (P.L. 105-17 § 1432). Natural environments are further defined in regulations as "settings that are natural or normal for the child's age peers who have no disabilities" (34 C.F.R. § 303.18).

Federal law includes both the legal requirements for early intervention and the foundation for implementation of services in natural environments, but the specifics as to how such requirements should be addressed are left up to each state. As such, IDEA requires that states develop policies and

Table 1. Part C of IDEA
Early Intervention Program for
Infants and Toddlers with Disabilities – Inclusion Provisions

Federal Regulations: 34 C.F.R. Part 303 **Early Intervention Program for Infants and Toddlers with Disabilities**
Section 303.12 EARLY INTERVENTION SERVICES (a) Natural environments To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate.
Section 303.18 NATURAL ENVIRONMENTS As used in this part, natural environments means settings that are natural or normal for the child's age peers who have no disabilities.
Section 303.167 INDIVIDUALIZED FAMILY SERVICE PLANS (IFSPs) Each application must include -- (c) Policies and procedures to ensure that – (1) To the maximum extent appropriate, early intervention services are provided in natural environments; and (2) The provision of early intervention services for any infant or toddler occurs in a setting other than a natural environment only if early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.
Section 303.344 CONTENT OF AN IFSP (d) Early intervention services (1) (ii) The natural environments, as described in Sec. 303.12(b), Sec. 303.18, in which early intervention services will be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment.

procedures to ensure that, to the maximum extent appropriate, early intervention services are provided in natural environments and occur elsewhere only if early intervention cannot be achieved satisfactorily in a natural environment. In an effort to facilitate implementation around providing services in natural environments, Part C also requires that each IFSP identify the natural environment in which services are to be provided and justify the extent, if any, to which the services will not be provided in the natural environment. Thus, the legal interpretation indicates that all early intervention services should occur in settings that are natural for the child's nondisabled age peers, unless there is justification of the need for the delivery of early intervention supports and services in some other setting. This exception should occur only when the IFSP team, including the child's parent(s), determines that goals and objectives related to the child's development cannot be achieved satisfactorily through intervention in settings that are natural for other children of the same age.

Part B of IDEA, Assistance to States for the Education of Children with Disabilities (3-21)

Part B of IDEA applies to the education for children with disabilities 3-21 years old. The requirements for 3-5 year olds are, therefore, contained in Part B of IDEA, not Part C.

In Part C of IDEA, the Infants and Toddlers Program, the concept of "natural environment" is used to refer to inclusive settings for birth-2 year olds (see Table 1). In Table 2, the provisions in the regulations governing Part B that pertain to serving 3-21 year olds in inclusive settings are described. The Congress used different terminology for preferred settings in Part C for infants and toddlers than for children 3-21 governed by Part B. The term "natural environments" used in Part C refers to settings that are natural or normal for the child's age peers who are nondisabled. The terms used in Part B are more educational-setting based, i.e., "least restrictive environment," "general curriculum," etc. This is an artifact of the preschool provisions being "housed" in Part B – the part of the law that primarily describes services for the school-aged population.

There are other attempts in Part B to recognize the importance of procedures that may need to be different for 3-5 year olds from the school age procedures. This is evident in the section of the law governing the IEP. Under this section, when it refers to requiring a statement in the IEP of " how a child's disability affects the child's involvement and progress in the general curriculum" it makes a distinction for preschoolers: "for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities" (34 C.F.R. § 300-347). The regulations did not respond to field requests to the U.S. Department of Education to describe what "appropriate activities" might refer to. It was the recommendation of the Division for Early Childhood (DEC) of the Council for Exceptional Children that "appropriate activities" be defined as: "activities, materials and environments that are chronologically age relevant and developmentally and individually appropriate" (DEC, 1998). In another example of age-related adaptations related to the LRE provisions, Appendix 1 of the regulations ("Analysis of Comments"), includes the following guidance for preschool placement options: "The full continuum of alternative placements at 34 C.F.R. § 300.551, including integrated placement options, such as community-based settings with typically developing age peers, must be available to preschool children with disabilities" (pg. 12639).

We have included in Table 2 many of the provisions related to the IEP, because the IDEA priority to include children in typical settings and in the general curriculum is woven throughout the IEP requirements. The IEP is primary to enhancing the child's involvement in regular education settings. The IEP describes the services to be provided to the child and the setting in which they will be provided. The priority for inclusion is reflected in the provisions related to (a) the content of the IEP; i.e., statements regarding access to the general curriculum and appropriate activities (34 C.F.R. § 300.347) and justification for nonparticipation in regular class and activities (34 C.F.R. § 300.347); and (b) requirements of the IEP team; i.e., the requisite involvement of a regular education teacher (34 C.F.R. § 300.344) and access to and knowledge of the IEP by all teachers and related service providers of the child (34 C.F.R. § 300.342). These are new requirements and emphases.

Table 2. Part B of IDEA
Assistance to States for the Education of Children with Disabilities – Inclusion Provisions

Federal Regulation: 34 C.F.R. Part 300 Assistance for Education of All Children with Disabilities
Section 300.28 SUPPLEMENTARY AIDS AND SERVICES As used in this part, the term *supplementary aids and services* means, aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 300.550-300.556.
Section 300.130 LEAST RESTRICTIVE ENVIRONMENT (a) General. The state must have on file with the Secretary procedures that ensure that the requirements of sections 300.550-300.556 are met including the provisions in section 300.551 requiring a continuum of alternative placements to meet the unique needs of a each child with a disability. (b) Additional requirements. (1) If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting where a child is served, the funding mechanism may not result in placements that violate the requirements of paragraph (a) of this section. (2) If the State does not have policies and procedures to ensure compliance with paragraph (b) (1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in placements that violate that paragraph.
Section 300.235 PERMISSIVE USE OF FUNDS (a) (1) Funds provided to an LEA under Part B of the act may be used for the following activities: (1) For the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more non-disabled children benefit from such services. (2) to develop and implement a fully integrated and coordinated service system…
Section 300.340 DEFINITIONS RELATED TO IEPs Individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 300.341-300.350

Table continues

Section 300.342 WHEN IEPS MUST BE IN EFFECT (b)(2) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and (3) Each teacher and provider described in paragraph (b) (2) of this section is informed of - (i) His or her specific responsibilities related to implementing the child's IEP; and (ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. Section 300.344
Section 300.344 IEP TEAM (a) The public agency shall ensure that the IEP team for each child with a disability includes - (1) The parents of the child; (2) At least one regular education teacher of such child (if the child is or may be, participating in the regular education environment); (3) a representative of the local educational agency who is knowledgeable about the general curriculum…. [the other provisions related to Team membership do not relate to LRE]
Section 300.346 DEVELOPMENT, REVIEW AND REVISION OF IEP (d) Requirement with respect to regular education teacher. The regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development, review and revision of the IEP, including assisting in the determination of - (1) appropriate positive behavioral interventions and strategies for the child and (2) supplementary aids and services, program modifications, or supports for school personnel that will be provided for the child….
Section 300.347 CONTENT OF IEP (a) General. The IEP for each child with a disability must include - (1) A statement of the child's present levels of educational performance, including - (i) how the child's disability affects the child's involvement and progress in the general curriculum (i.e. the same curriculum as for nondisabled children); or (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; (2) A statement of measurable annual goals, including benchmarks or short-term objectives, related to-(i) Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum; or for preschool children, as appropriate to participate in appropriate activities and (ii) Meeting each of the child's other educational needs that result from the child's disability; (3) A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for the school personnel that will be provided for the child- (i) To advance appropriately toward attaining the annual goals; (ii) To be involved and progress in the general curriculum in accordance with paragraph (a) (1) of this section and to participate in extracurricular and other nonacademic activities; and (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in

Table continues

this section; (4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a) (3) of this section. (i) A statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and (ii) If the IEP Team determines that the child will not participate in a particular State or district-wide assessment of student achievement (or part of an assessment), a statement of - (A) Why that assessment is not appropriate for the child; and (B) How the child will be assessed
Section 300.550-556 LEAST RESTRICTIVE ENVIRONMENT (LRE) (b) Each public agency shall ensure - (1) that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are non-disabled; and (2) that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
Section 300.551 CONTINUUM OF ALTERNATIVE PLACEMENTS (a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (b) The continuum required in paragraph (a) of this section must- (1) Include the alternative placements listed in the definition of special education under section 300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institution); and (2) Make provision for supplementary services (such as resources room or itinerant instruction) to be provided in conjunction with regular class placement.
Section 300.552 PLACEMENTS In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that - (a) The placement decision - (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and (2) Is made in conformity with the LRE provisions of this subpart, including section 300.550-300.554; (b) The child's placement - (1) Is determined at least annually; (2) Is based on the child's IEP; and (3) Is as close as possible to the child's home; (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled; (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Table continues

Section 300.553 NONACADEMIC SETTINGS In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in section 300.306, each public agency shall ensure that each child with a disability participates with non-disabled children in those services and activities to the maximum extent appropriate to the needs of that child.
Section 300.554 CHILDREN IN PUBLIC OR PRIVATE INSTITUTIONS Except as provided in section 300.600(d), an SEA must ensure that section 300.550 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).
Section 300.555 TECHNICAL ASSISTANCE AND TRAINING ACTIVITIES Each SEA shall carry out activities to ensure that teachers and administrators in all public agencies - (a) Are fully informed about their responsibilities for implementing section 300.550; and (b) Are provided with technical assistance and training necessary to assist them in this effort.
Section 300.556 MONITORING ACTIVITIES (a) The SEA shall carry out activities to ensure that section 300.550 is implemented by each public agency. If there is evidence that a public agency makes placements that are inconsistent with section 300.550, the SEA shall - (1) Review the public agency's justification for its actions; and (2) Assist in planning and implementing any necessary corrective action.

Other inclusion-related provisions include the definition of "supplementary aids and services" (34 C.F.R. § 300.28). The term is defined in such a manner as to make it clear that these non-special education and related services are to be provided if necessary to successfully include a child with a disability in a regular education setting and/or the general curriculum. Therefore, services such as teacher training, and other supports beyond special education and related services must be provided in the regular education setting if it enhances the successful inclusion of a child with a disability. The amendments also include: (a) prohibitions on state education funding formulas that have the result of creating segregation, e.g. formulas that pay for classes rather than services, etc. (34 C.F.R. § 300.130), and (b) a clear preference for education in the regular classroom to the extent that 34 C.F.R. § 300. 235 clarifies that IDEA funds are to be used for special education, related services and supplementary aids and services in the regular class even if non-disabled children in that setting benefit from them.

While IDEA '97 emphasizes a preference for inclusion for infants and toddlers and preschoolers with disabilities, implementation strategies at the state and local levels will play an important part in actualizing that preference. Implementation will need to address people's concerns about inclusion, policy and administrative challenges to inclusive systems and the quality of services. These three areas of challenge must be systematically assessed and improved to ensure that inclusion is achieved and results in positive experiences and outcomes for children, families and the personnel who serve them.

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